IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21056 of 2005

Between:

1. V. Tulasiram S/o. Narayana Swamy and others

..... PETITIONERS

AND

1. Sub-Divisional Magistrate-Cum-Special Grade Deputy

Collector & Revenue Divisional Officer, Chevdella
2. Inspector of Police, Shamshabad Police Station,

Ranga Reddy District,
3. Mandal Revenue Officer, Shamshabad Mandal,

Ranga Reddy District,
4. District Collector, Ranga Reddy District, at Hyderabad,

.....RESPONDENTS

The Court made the following:

ORDER:

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Quashing the proceedings of the first respondent in Case No.L/2940/2005, Dated 22.09.2005, the present writ petition has been filed.

The case of the petitioners is that they are the absolute owners of lands situated in S.Nos.122 to 126, 143 to 150, 152/A, 152/B, 153 and 154 of Sultanpally village, Shamshabad Mandal, Rangareddy District. The Revenue authorities also recognized their title and possession and issued pattadar pass books and title deeds in respect of the said lands. In the meanwhile, the third respondent claiming that the said lands are jagir lands and tried to vest the same into the sate, on that the petitioners filed W.P.No.12631 of 1993 before this Court and the same was allowed by order dated 24.03.2000, against which the State preferred appeal in W.A.No.732 of 2000 and the same was also dismissed by judgment dated 11.11.2002. Thus, the petitioners are the absolute owners of the lands in question. While the matter stood so, the first respondent, without any jurisdiction and in contravention of the procedural requirement of law, basing on the report of third respondent-Mandal Revenue Officer, Shamshabad stating that the petitioners are attempting to erect fencing over the disputed lands and as there is every possibility of changing the nature of land, issued the impugned proceedings restricting the entry of the petitioners into their lands.

The learned counsel for the petitioner contended that the impugned order does not have any conformity with the provisions of Section 145 (1) Cr.P.C. and there are no grounds to issue the impugned proceedings, and hence, he prays to quash the said proceedings.

On the other hand, the learned Government Pleader for Home submitted that the villagers made a complaint to the police that the petitioners are preventing them from grazing the cattle, and as there is every likely hood of breach of peace and tranquility among the villagers, and hence, the first respondent initiated the impugned proceedings, and therefore, the impugned order does not suffer from any infirmity.

The order issued under Section 145 of Criminal Procedure Code is only preventive in nature and it cannot decide or determine the title or possession of the parties. Even assuming for a moment, the order under challenge does not contain any grounds of his satisfaction, but the report of Mandal Revenue Officer clearly shows

that there is every likely hood of breach of peace and tranquility among the villagers in respect of the land in question. After considering the report of Mandal Revenue Officer, the first respondent-Sub. Divisional Magistrate, Chevalla Division, Rangareddy District passed the impugned proceedings. The impugned proceedings go to show that on considering the report of the third respondent that there is every likelihood of breach of peace and tranquility among the villagers in the respect of the lands in question and in order to prevent the conflicts between the different communities in the village, the first respondent passed the impugned order. So, *prima facie*, the impugned order does not suffer from any infirmities so as to call for interference of this Court.

It is well settled principle of law that the order passed under Section 145 Cr.P.C. is a revisionable order under Section 397 of Cr.P.C. There cannot be any dispute that an alternative remedy is not a bar to approach this Court under Article 226 of Constitution of India. Normally, this Court will not interfere unless the fundamental rights of a person have been violated, when the authority, who passed the order, lacks jurisdiction, and, when principles of natural justice have been violated. But any of the ingredients are not attracted to the present case.

In view of the facts and circumstances of the case, without entering into the merits of the case, I deem it appropriate to dispose of the writ petition, directing the petitioner to avail the alternative remedy of revision against the impugned order before the concerned.

With the above observations, the writ petition is disposed of. No costs.

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(K.C. BHANU, J)

Date: 27.09.2005

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